



Special Notice

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New Tax Rates for Diesel and Motor Vehicle Fuel Effective July 1, 2011

As it pertains to diesel fuel, Assembly Bill 105 (Chapter 6, Statutes 2011) (AB 105) reenacts Revenue and Taxation Code (RTC) sections 6051.8, 6201.8, 6357.3, and 6480.1 of the Sales and Use Tax Law and section 60050 of the Diesel Fuel Tax Law. These statutes provide for a diesel fuel excise tax rate decrease, a sales and use tax rate increase on sales of diesel fuel, and a sales tax prepayment rate adjustment on diesel fuel effective July 1, 2011. AB 105 also reenacts several statutes pertaining to motor vehicle fuel, including section 7360 of the Motor Vehicle Fuel Tax Law, which provides for an excise tax rate adjustment on motor vehicle fuel effective July 1, 2011.

Summary of rates effective July 1, 2011

	Diesel Fuel	Motor Vehicle Fuel
Excise Tax (per gallon)	\$0.13 (13.0 cents)	\$0.357 (35.7 cents) (up from \$0.353)
Sales and Use Tax	9.12% plus applicable district taxes	2.25% plus applicable district taxes (no change)
Prepaid Sales Tax (per gallon)	\$0.25 (25.0 cents)	\$0.055 (5.5 cents) (no change)

Excise Tax Rate Decrease for Diesel Fuel

Effective July 1, 2011, the excise tax rate on diesel fuel will decrease to 13.0 cents (\$0.13) per gallon and will be imposed upon suppliers at the same points of taxation as is the current 18 cents (\$0.18) per gallon tax. (2010 legislation reduced the excise tax rate on diesel fuel to 13.6 cents (\$0.136) per gallon, effective July 1, 2011, but AB 105 replaced that legislation and reduced the rate further to 13.0 cents (\$0.130) per gallon.) Suppliers are responsible for paying the new lower tax rate of 13.0 cents (\$0.13) on all taxable activities occurring on or after July 1, 2011.

We are revising the diesel fuel excise tax forms in order to accommodate the multiple rates that may apply. For more detailed information on changes to the claim for refund forms, please refer to page 19 of [BOE-810-FTE, Instructions for Preparing Motor Fuels Schedules](#), or visit the Board of Equalization's (BOE) website at www.boe.ca.gov.

Excise Tax Rate Adjustment for Motor Vehicle Fuel

Effective July 1, 2011, the excise tax rate for motor vehicle fuel (excluding aviation gasoline) will increase from 35.3 cents (\$0.353) to 35.7 cents (\$0.357) per gallon. The BOE is required to adjust the motor vehicle fuel and diesel fuel excise tax rates annually, effective July 1 of each year, in accordance with the revenue neutral requirements of the legislation.

Sales and Use Tax Rate Increase on Sales of Diesel Fuel

Effective July 1, 2011, the statewide sales and use tax rate imposed on sales of diesel fuel will increase 1.87 percent.* It is important to remember that the current statewide sales and use tax rate (8.25 percent) applicable to sales of *all* tangible personal property is scheduled to decrease by one percent, to 7.25 percent, on July 1, 2011. Therefore, beginning

* The sales and use tax rate increase changes to 2.17 percent effective July 1, 2012; to 1.94 percent effective July 1, 2013; and to 1.75 percent effective July 1, 2014, and thereafter. (2010 legislation increased the sales and use tax rate on sales of diesel fuel by 1.75 percent, effective July 1, 2011, but AB 105 replaced that legislation and increased the rate further to 1.87 percent.)

***New Tax Rates
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July 1, 2011, the sales and use tax rate applicable to sales of diesel fuel will be 9.12 percent (7.25 percent + 1.87 percent), plus any applicable district taxes. Please refer to our website for [up-to-date sales and use tax rates](#).

Exemption from the Sales and Use Tax Rate Increase

RTC section 6357.3 provides an exemption from the sales and use tax rate increase for diesel fuel that is purchased for use or is used in a manner that is exempt under the Diesel Fuel Tax Law (for example, exempt train operators or exempt off-highway use). The exemption also applies to diesel fuel that is used in exempt bus operations (RTC section 60039), which are subject to the payment requirement specified in RTC section 60502.2. To claim the exemption from the additional sales tax, the purchaser must furnish the seller with a valid exemption certificate in accordance with proposed [Regulation 1598, Motor Vehicle and Aircraft Fuels](#).

Persons who are partially exempt from sales and use tax pursuant to [Regulation 1533.2, Diesel Fuel Used in Farming Activities or Food Processing](#), are exempt from the sales and use tax rate increase and may continue to use the sample partial exemption certificate provided in Regulation 1533.2.

Sales Tax Prepayment Rate Adjustment for Diesel Fuel

As a result of these changes, the sales tax prepayment rate for diesel fuel will be adjusted to 25.0 cents (\$0.25) per gallon effective July 1, 2011. The prepayment rates for motor vehicle fuel and aircraft jet fuel will remain at 5.5 cents (\$0.055) per gallon and 14.0 cents (\$0.14) per gallon, respectively.

“Diesel Fuel” Defined

As defined in RTC section 60022, “diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. This includes biodiesel fuels, whether they are called biodiesel, B100, methyl esters, or by any other name and whether or not the fuel meets the specification of ASTM D6751. Furthermore, waste vegetable oil (WVO) and straight vegetable oil (SVO) are considered a taxable diesel fuel once they are converted for sale or used in a diesel powered highway vehicle. The term “diesel fuel” does not include gasoline, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, or alcohol.

Reminder

In general, the retail sales price of diesel fuel includes sales tax, as well as federal and state excise taxes. Therefore, it is important that retailers remember to apply the correct sales and use tax rate when calculating the tax collected on sales of diesel fuel and when computing and reporting the sales-tax-included deduction. Additionally, it is important that retailers remember that the 13.0 cents (\$0.13) per gallon diesel fuel tax (state) is excluded from the gross receipts subject to sales tax.

For Additional Information

For more information, visit the [Frequently Asked Questions](#) available at www.boe.ca.gov or call our Taxpayer Information Section at 800-400-7115 (TTY: 711). Customer service representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m., Pacific time, except state holidays.